

## **Duty to Serve Draft Policy Approach**

July 18, 2005

### **Duty to Serve**

#### **Applies:**

- To municipal water suppliers (MWS) within their retail service area.
- When the four threshold factors can be met (on a case-by-case basis).
- To systems that have documented their retail service area within an approved water system plan, or WSP amendment.

### **Retail Service Area**

- Determined by the MWS.
- Must include all areas where service is currently provided and may include areas where service is planned.
- MWS has a duty to provide service within its retail service area. MWS cannot provide retail service outside their retail service area.
- Retail service areas can be modified by amending the MWS' water system plan.
- Retail service area modifications to exclude a portion of the retail service area where a request for service is pending will not be approved by DOH.

### **Threshold Factors**

#### **Capacity**

- DOH has oversight responsibility.
- DOH will ensure capacity determinations are included in water system plans. Capacity determinations will incorporate a water system's physical capacity (source and storage) and water right (QiQa) limitations.
- Capacity determinations will be expressed in terms of approved number of connections. Capacity sufficiency for large systems will be addressed within their water system plan.
- Safe and reliable manner means that a MWS cannot have a red operating permit.

#### **Consistency**

- DOH has oversight responsibility. DOH will make final consistency determinations.
- Applies within a MWS retail service area to adopted comprehensive plans, land use plans, and development regulations.
- Required consistency elements include: land use, 6-year growth projections, potential large water users, service extension ordinances, and provisions of water service.
- DOH will request local governments to provide feedback on consistency.
- Consistency review and resolution of disputes should occur prior to WSP submittal to DOH.

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- If inconsistency with a required element is determined, DOH will not approve the water system plan until the issue is resolved.
- If an incomplete consistency review by the local government occurs, the MWS must document efforts to gain consistency and provide consistency evaluation. DOH will follow-up with local government (this includes a complete lack of review by local government).
- DOH may approve a water system plan with inconsistencies where there is a significant and immediate public health threat. MWS will be required to address issues after approval.

## Water Rights

- The Department of Ecology (Ecology) has regulatory authority (and therefore oversight) on water right sufficiency determinations.
- DOH will ensure all water system plans are provided to Ecology for review.
- DOH will support Ecology compliance actions (at the point of WSP approval as well as within the 6-year planning cycle).

## Timely and Reasonable

- DOH does not have oversight in timely and reasonable determinations. This factor is considered a civil matter between the MWS and the applicant. Local governments may provide oversight.
- DOH will provide guidance for timely and reasonable as it applies to the Coordination Act (RCW 70.116) and the MWL.